



# G-Cloud 14

Terms and Conditions

Lot 3: Cloud Support Services

September 2024

The Buyer and the Supplier hereby agree to the following terms ("**Terms**") apply to the provision of consulting services that the Supplier provides to the Buyer in relation to the G-Cloud services ("**Services**"). Capitalised terms have the meanings ascribed to each of them in the body of these Terms or as set out in Schedule 1.

## 1. SERVICES

- 1.1 By entering into an Order Form, the Buyer engages the Supplier to provide, and the Supplier agrees to provide, the Services solely to, and for the benefit of, the Buyer in accordance with these Terms. The Supplier will perform the Services with reasonable care and skill in a proper and professional manner consistent with Good Industry Practice. Except as otherwise expressly set forth in these Terms or the Order Form, the Supplier makes no, and disclaims all, express and implied warranties of any kind.
- 1.2 The Buyer agrees to actively cooperate in the delivery of the Services Deliverables and is responsible for: (a) providing data about The Buyer's needs, business, operations, personnel, customers, technology, requirements (including relevant legal and compliance requirements); (b) providing and maintaining materials and services such as computers, software, hardware, office space, furniture, facilities, utility and internet services, as required; (c) timely iteration, feedback and approvals of goals, timelines, requirements and outputs; (d) ensuring the use of Services complies with the laws and regulations applicable to the Buyer; and (f) such other assistance as necessary for Supplier to successfully deliver the Services. The Supplier will not be responsible for any delay, failure to perform or deliver, or alteration of the Services, or any loss or corruption of Buyer Data due to: (a) any failure by the Buyer to actively cooperate with the Supplier in the provision of the Services or to comply with its responsibilities under Section 1.1; (b) any breach by the Buyer of the Terms; or (c) the occurrence or continuation of any Force Majeure Event.
- 1.3 Where the Services include, or otherwise require, the provision of software-as-a-service ("SaaS") tools from the Supplier, the provisions of the Supplier SaaS Terms at Appendix 1 of the Supplier Terms shall, notwithstanding anything to the contrary in the Supplier Terms or the Order Form, apply to the provision of the SaaS Services supplied by the Supplier.

## 2. INTELLECTUAL PROPERTY RIGHTS

- 2.1 Each Party owns and retains all rights, title and interests in and to its respective Background IPR. The Buyer grants to the Supplier a worldwide, non-exclusive, royalty-free, sub licensable, non-transferable, fully paid, licence to use the Buyer's Background IPR to the extent necessary to enable the Supplier to provide the Services.
- 2.2 Subject to Sections 2.1, and upon payment of the Fees, the Supplier grants to Buyer a non-exclusive, non-transferable (other than to Buyer's Affiliates), royalty-free, worldwide, perpetual license to use, copy, translate, display, and prepare derivative works of the Foreground IPR in the deliverables for Buyer's internal business purposes, provided such use

does not breach Buyer's confidentiality obligations to Supplier, Supplier's confidentiality obligations to third parties, or infringe Supplier's Background IPR.

- 2.3 To the extent the deliverables provided to the Buyer in connection with the Services ("Deliverables") contain any of the Supplier's Background IPR or third party IPR, the Supplier grants to the Buyer a worldwide, non-exclusive, non-transferable and non-sub-licensable, fully paid, licence to use such Background IPR and third party IPR solely: (i) for the purpose of the Buyer using the Deliverables internally; (ii) as contemplated by the Order Form; (iii) in accordance with these Terms; and (iv) only to the extent embedded within a Deliverable - and never on a standalone basis.
- 2.4 The Buyer acknowledges and agrees that the Deliverables are prepared solely for the Buyer's internal use. The Buyer will not disclose the Deliverables or make the Deliverables available for use by any third party without the prior written consent of the Supplier.
- 2.5 Immediately upon the Supplier's assignment of Foreground IPR to the Buyer, the Buyer grants to the Supplier a non-exclusive, perpetual, transferable (including the right to sub-license), royalty-free, fully paid up, worldwide licence to use the Foreground IPR for any purpose, provided always that such use does not breach clause 4 (*Confidentiality*) of the Terms.
- 2.6 The Supplier shall not be precluded from independently developing for itself, or for others, anything, whether in tangible or non-tangible form, that is competitive with, or similar to, any of the Services or Deliverables, provided that the Supplier does not use any Buyer Confidential Information for which it does not have a licence to use for such purposes. In addition, the Supplier shall be free to use its general knowledge, skills and experience and Know-How, expertise, ideas, techniques, approaches, concepts, or designs used, developed or acquired by or on behalf of the Supplier in the course of performing the Services, including, but not limited to, any know-how, concepts or information retained in the unaided memory of the Supplier employees or agents as a result of authorized access to Buyer Confidential Information.
- 2.7 The Buyer acknowledges that the Supplier may use, and upload Buyer IPR to, a secure cloud based solution and/or cloud-based file storage and sharing solutions when providing Services to the Buyer.
- 2.8 During the term of the Services, the Buyer grants the Supplier a licence to use any of the Buyer's IPR required to perform the Services and/or provide the Deliverables, as contemplated by the Proposal Letter or as mutually agreed in writing by the Parties.
- 2.9 The Supplier will own and retain all rights, title and interests in and to any and all Aggregate Data, including the rights to develop, test, maintain, improve, modify, create derivative works from, distribute, and otherwise commercialize Aggregate Data.

### 3. FEES AND PAYMENT

- 3.1 The Buyer will pay to the Supplier the fees for the performance of the Services and the provision of any Deliverables, as set out in the Order Form (the "**Fees**"). To the extent an Order Form is terminated prior to completion for any reason, the Buyer will pay the Fees



incurred for Services performed and Deliverables provided up to the date of termination. The Fees do not include any applicable taxes. Unless otherwise agreed in the Order Form, the Supplier will invoice the Buyer for Fees payable four weeks following execution of the Order Form and every subsequent four weeks. The Buyer will pay the invoices within thirty (30) days of the invoice date.

#### 4. CONFIDENTIALITY

- 4.1 Each Party will keep confidential and, save as set out in Sections 4.2 and 4.3, will not disclose to any third party, any confidential information of the other Party disclosed in connection with the Services ("Confidential Information"). Confidential Information will not include any information that (a) is previously known to the receiving Party without an obligation not to disclose such information or was previously in its possession; (b) is acquired by a receiving Party from a third party which was not, to the receiving Party's knowledge, under an obligation not to disclose such information; or (c) which the receiving Party can demonstrate was independently developed by or for the receiving Party without reliance on any Confidential Information of the other Party; or (d) becomes publicly known and made generally available, through no breach of the Agreement; or (e) consists of Aggregate Data, provided that such Aggregate Data will neither identify the disclosing Party as the source of any component of the Aggregate Data nor categorize information in a manner that would permit a third party to reasonably infer that any component of the Aggregate Data relates specifically to the disclosing Party.
- 4.2 Each Party may use or make copies of the Confidential Information of the other Party only to the extent reasonably necessary for purposes of a Proposal or for the Parties' discussions regarding actual or potential services. Each Party will protect the Confidential Information of the other Party in the same manner it protects the confidentiality of its own Confidential Information, but in no event using less than a reasonable standard of care. Each Party will restrict access in and to the Confidential Information of the other Party to those of its personnel (including personnel employed by its Affiliates) and subcontractors engaged in the performance, management, receipt, support, or use of the Services for the applicable Engagement. Such access is permitted provided that such personnel and third parties are bound by obligations of confidentiality substantially similar to the confidentiality provisions under these Terms.
- 4.3 If either Party receives an order of any court of competent jurisdiction or any regulatory, judicial, governmental or similar body or any taxation authority of competent jurisdiction requiring disclosure of the Confidential Information of the other Party, it will promptly notify the disclosing Party, to the extent legally permitted.
- 4.4 **Buyer Personal Data.** The parties agree that the Supplier does not require any Personal Data from the Buyer in order to perform the Services. The Buyer will use all reasonable efforts to ensure that it does not send any Personal Data to the Supplier. Notwithstanding the foregoing, if the Supplier processes any personal data of the Buyer, the Supplier will act as Processor and the Buyer will act as Controller (unless otherwise agreed in the Order Form), and the following terms "**controller**", "**process**" and "**processor**" will have the meanings as given to them in the EU Data Protection Directive (Directive 95/46/EC) and General Data Protection Regulation ((EU) 2016/679) ("GDPR"). The nature of the Services may require the Buyer to provide Buyer Personal Data to the Supplier or for the Supplier to collect or process Buyer Personal Data as a processor on Buyer's behalf. To the extent that the Supplier processes Buyer Personal Data on the Buyer's behalf as a processor in

connection with the performance of the Services, Buyer and the Supplier agree to enter into a data processing agreement incorporating the terms required under article 28 of GDPR. Buyer as a controller alone will determine the purposes for which, and the manner in which, Buyer Personal Data is, or is to be, processed in the performance of the Services. When providing any Personal Data, Buyer confirms that it is doing so in accordance with all applicable data protection legislation including without limitation GDPR.

- 4.5 **Audit.** Should the Buyer elect to conduct an Audit under the terms of G-Cloud 14, the Buyer will give reasonable notice to the Supplier in writing of its intent to conduct an Audit and the Parties shall agree the scope of any Audit prior to commencement of the relevant Audit, including agreeing to the identity of the Buyer's appointed auditor where relevant. The Buyer shall be entitled to conduct an Audit once per calendar year, such time period commencing from the date of commencement of the Services being audited and ending on the date 18 months from the date on which the Services to which an Audit relates are deemed to be completed. Any Audit conducted by the Buyer shall be at the Buyer's cost. Whilst conducting an Audit, the Buyer and/or its appointed auditor (as relevant) will have due regard for the requirements of the Supplier including (but not limited to) the Supplier's duty of client confidentiality, its commercial sensitivities, and protection of the Supplier's business and affairs (including its Confidential Information), and will use reasonable endeavours to ensure that any Audit does not disrupt the Supplier, the supply of the Services, or the Supplier's business activities in general. Where required by the Supplier, the Buyer will procure entry by its appointed auditor or other persons involved with any Audit into any reasonable non-disclosure requirements specified by the Supplier, prior to the commencement of any Audit.

## 5. LIMITATION OF LIABILITY

- 5.1 Subject to Section 5.3, but notwithstanding any other provisions of Terms herein, in no event will either Party be liable to the other Party for any: (i) indirect, special, exemplary, incidental or consequential damages; or (ii) for any direct or indirect loss of business, data, profits or goodwill, in each case whether arising out of contract (including under an indemnity), tort (including negligence), statute, strict liability or otherwise, resulting from or related to the Services and/or the Deliverables under the relevant Order Form (whether or not such party knew of should have known of the possibility of any such damages).
- 5.2 Subject to the remainder of this Section 5, under no circumstances will the Supplier's aggregate liability to the Buyer for any and all claims (including third party claims) arising from or in connection with or relating to the Services (whether in contract (including under an indemnity), tort (including negligence), strict liability, statute or otherwise) exceed an amount equal to the Fees paid by the Buyer to the Supplier for the applicable Services and / or Deliverables that gave rise to the claim.
- 5.3 In respect of a defaulting Party, nothing in these Terms limits or excludes such Party's liability for: (i) personal injury or death suffered by the other (non-defaulting) Party caused by the defaulting Party's negligence; (ii) fraud; or (iii) any matter for which it would be illegal for the defaulting Party to exclude or limit or to attempt to exclude or limit its liability under applicable law.
- 5.4 Buyer indemnifies Supplier from any actual or threatened claims and losses, including as a party or witness in any claim, arising from or related to: (a) disclosure of the Deliverables

by Buyer to a third party, or any use of, or reliance on, the Deliverables by such third party; (b) a third party claim that Supplier's use of Buyer's IPR or Buyer's data in performance of the Services breaches any third party intellectual property right or the confidentiality of a third party; and (c) a third party claim against Supplier with respect to any decisions made or actions taken by Buyer based on outputs obtained from Supplier's Services and Deliverables.

## 6. GENERAL PROVISIONS

- 6.1 The Supplier will not assign consultants who have worked with the Buyer to provide services to a Buyer's direct competitor where the services to be provided are materially similar to the services the Supplier has performed for Buyer under an Order Form. The Supplier agrees that this restriction will last for 6 months from the conclusion of the individual's work with Buyer on the Services. This restriction will not apply to any senior professionals who serve as the Supplier practice area leaders (PALs), any topic experts or advisors, who specialize in an industry or specific business discipline, or any personnel of the Supplier's subsidiary entities which perform a specialist consultancy business. The involvement of such an individual in the Services will not preclude them from working for other clients.
- 6.2 The Terms will be governed by and construed in accordance with the laws of England and Wales. The Parties agree to submit to the exclusive jurisdiction of the courts of England and Wales.
- 6.3 The provisions of the Terms will be deemed severable, and the invalidity or unenforceability of any one or more of its provisions will not affect the validity and enforceability of its other provisions. If any such provision is held to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force.
- 6.4 Pursuant to the Terms, the Supplier is an independent contractor to the Buyer and neither of the Parties is a partner or agent of the other Party. No Party is authorized to enter into or incur any agreement, commitment, obligation, or liability in the name of or on behalf of the other Party.
- 6.5 The Terms exist solely for the benefit of the Parties to the Order Form. Only the Parties (or any Party), or in the case of the Supplier, its Affiliates, may enforce the terms of these Terms in respect of the relevant Services. The Parties to each Proposal do not intend to confer any right or benefit in connection with such Services on any third party.
- 6.6 The delay or failure of a Party to insist upon or enforce another Party's strict performance of any provision herein, or to exercise any right or remedy under the Terms, will not be interpreted or construed as a waiver to any extent of that Party's right to assert or rely upon any such provision, right or remedy in that or any other instance.
- 6.7 The Terms, which are by their nature intended to survive the expiration or termination of an Proposal will survive, including but not limited to Sections 2 (Intellectual Property Rights), 3 (Fees and Payment), 4 (Confidentiality), 5 (Limitation of Liability), 6.1

(Restrictions on Personnel), 6.2 (Governing Law), 6.3 (Severability), 6.5 (third party Beneficiaries), 6.5 (Waiver) and 6.7 (Survival).

- 6.8 Neither Party will assign, voluntarily, by operation of law, or otherwise, any rights or delegate any obligations under these Terms (other than the right to receive payments) without the prior written consent of the other Party, and any attempt to do so will be void, provided that the Supplier may assign its rights under the Terms to any of its Affiliates. The Agreement will bind and inure to the benefit of the Parties and their respective successors and permitted assigns.
- 6.9 The Order Form signed by the Parties and referencing these Terms, contains the entire agreement and understanding by and between the Parties with respect to the relevant Services, and no prior representations, promises, agreements or understandings that are not set out in them (whether written or oral) will be of any force or effect.

## 7. SCHEDULE 1 DEFINITIONS

- 7.1 “**Aggregate Data**” means de-identified, sanitized or anonymized data that is derived from Buyer Data and used for analytical and statistical reporting purposes, but excludes Buyer Personal Data.
- 7.2 “**Background IPR**” means any IPR: (i) developed by a Party independently of an Engagement; or (ii) owned by a Party, or licensed to such Party (other than by the other Party), as at the commencement date of the applicable Engagement, including any and all modifications or enhancements to the same.
- 7.3 “**Buyer Personal Data**” means the information, in any form, that is provided to the Supplier by or on behalf of the Buyer that alone, or in combination with other information: (a) is considered personal data or personal identifiable information under the applicable data privacy laws; or (b) identifies or could be reasonably used to identify an individual data subject, including names, addresses, email addresses, telephone numbers, Social Security numbers, government identification numbers or any other personally identifiable information.
- 7.4 “**Foreground IPR**” means any and all IPR except: (i) Background IPR; and (ii) third party IPR.

## Appendix 1 Supplier SaaS Terms

1. Right of Access. BCG has created and developed certain surveys, programs, applications, data, information, and content therein which are accessible to Client within the BCG Product, (hereinafter collectively will be referred to as “**Licensed Materials**”). BCG grants Client, during the Term (as defined below), a limited, worldwide, right, which is non-exclusive and non-transferable and which cannot be sublicensed, to access and use the Licensed Materials solely for Client’s internal business purposes (“**Permitted Use**”). Client consents to BCG’s and its suppliers required or permitted use of any and all original data or information, in any format, to which BCG or its suppliers are provided access (including Client Personal Data and excluding Aggregated Data)(“**Client Data**”), including consent for BCG or its suppliers to move, remove or modify Client Data to enable BCG to comply with its legal obligations or to remove Client Data to the extent it is not in compliance with this Agreement. For the duration of the Agreement Client grants to BCG and its suppliers a non-exclusive, non- transferable, world-wide right to access, collect and use Client Data as reasonably required to perform this Agreement.
2. BCG Responsibilities. BCG will:
  - 2.1. Provide Client with access to the Licensed Materials; BCG may host the Licensed Materials and/or any Client Data provided by Client or used in conjunction with the BCG Product by Client, on cloud based repositories;
  - 2.2. Provide Client with a brief technical introduction to the Licensed Materials;
  - 2.3. Provide reasonable maintenance and technical support, pursuant to BCG’s standard maintenance and support policies then in effect (as more fully described in Schedule 1 Software as a Service Description) for the BCG Product; and,
  - 2.4. Provide Client with access to surveys, if applicable, conducted within the BCG Product.
3. Client’s Responsibilities. Client will:
  - 3.1. Limit access to the Licensed Materials to only those of Client’s employees who have a need to access them in connection with the purposes of this Agreement and who have agreed to use the Licensed Materials in accordance with the terms of this Agreement (“**Permitted Users**”) and BCG’s Acceptable Use and Content Policy in Schedule 2. Client agrees not to give access to the Licensed Materials to any of Client’s contractors or consultants or to any third parties without BCG’s prior written consent;
  - 3.2. Undertake that each Permitted User will keep a secure password for his or her use of the Licensed Materials, that such password will be changed frequently and that each Permitted User will keep his or her password confidential, and in the event any password is disclosed in an unauthorized manner, Client will immediately notify BCG;
  - 3.3. Be solely responsible for any breach of this Agreement resulting from the activities of any of Client’s Permitted Users, employees, contractors or consultants;
  - 3.4. Upon request from BCG, certify to BCG Client’s compliance with the terms of this Agreement and/or allow BCG to review Client’s compliance with the terms of this Agreement upon reasonable notice and at reasonable times, such compliance review may involve an on-site review;
  - 3.5. Be responsible for obtaining and maintaining all computer hardware, communications equipment and internet service needed to access and use the BCG Product and for paying all third-party fees and access charges related to such equipment and services;
  - 3.6. Be solely responsible, and BCG will bear no responsibility for (a) correctly inputting Client’s Data;



(b) decisions regarding data input (e.g., survey questionnaire); (c) errors or omissions in Client's Data, including without limitation, any viruses or malware; (d) Client's choices with regard to configuring the BCG Product's options (e.g., filters and groupings); (e) Client's interpretation of the reports generated through the BCG Product; and (f) ensuring the accuracy, quality, integrity, legality, reliability and appropriateness of the Client Data being transferred or used in conjunction with the BCG Product.

4. Company Acknowledgment The Company acknowledges and agrees that in providing its Services including but not limited to the output of the BCG tool hereunder, BCG will be using and relying upon, without any independent investigation or verification thereof, of certain information ("**Company Information**"), in particular on Company operations, supply chain, use of resources, that is or will be furnished to BCG by or on behalf of the Company and on publicly available information. BCG will not in any respect be responsible for the accuracy or completeness of any of the foregoing kinds of information provided by or on behalf of the Company. The Company acknowledges and agrees output of the BCG product will be dependent on the accuracy of the Company Information and consequently may be inaccurate if the company information is not accurate or incomplete or does not reflect the actual operations of the Company.

5. Proprietary Rights.

5.1. Ownership of Licensed Materials. BCG or its licensors retains all right, title and interest in and to the Licensed Materials, including, without limitation, all patent, copyright, trademark, and trade secret rights, embodied in, or otherwise applicable to the Licensed Materials. All materials embodied in, or comprising the Licensed Materials, including, but not limited to, graphics, user and visual interfaces, images, code, applications, and text, as well as the design, structure, selection, coordination, expression, "look and feel," and arrangement of the Licensed Materials, and the trademarks, service marks, proprietary logos and other distinctive brand features found in the Licensed Materials, are all owned by BCG or its licensors. There are no implied rights or licenses in this Agreement. All rights are expressly reserved by BCG.

5.2. Statistical Data. As part of Client's use of the Licensed Materials, Client acknowledges and agrees that aggregate or statistical data may be developed, which is defined as de-identified, sanitized or anonymized Client Data (collectively, "**Aggregated Data**"). Client authorizes BCG to create Aggregated Data from Client Data and to Aggregated Data for BCG's own purposes, such as analytical, statistical, reporting, benchmarking and training purposes, with the aim of improving BCG services for any reason, including, but not limited to, product enhancements or security evaluations. BCG will own such Aggregated Data. Nothing contained in this Section limits or reduces BCG's obligations to protect Company's Confidential Information or Personal Data. "**Client Personal Data**" means the information, in any form, provided to BCG by or on behalf of Client that alone, or in combination with other information: (a) is considered personal data or personal identifiable information under the applicable data privacy laws; or (b) identifies or could be reasonably used to identify an individual data subject, including names, addresses, email addresses (beyond log-on business email), telephone numbers, Social Security numbers, government identification numbers or any other personally identifiable information.

6. Security. BCG will take commercially reasonable measures to protect Client's Data, which measures will be no less than the measures BCG takes to protect its own data. BCG and/or its suppliers will be entitled to incorporate into the BCG Product technical measures to protect the BCG Product (such as, user and/or module keys). Client will not be allowed to remove and/or by-pass these security measures. Client agrees to use reasonable security measures in implementing the

Licensed Materials and in properly provisioning or configuring the BCG Product for Client's use. Client is responsible for backing up its own system, and any Client Data, including any content downloaded through the BCG Product. Client also acknowledges that BCG uses third party suppliers for hosting and infrastructure to provide the Services and consents that Client Data may be shared with such third parties to facilitate use of the BCG Product. Client agrees to comply with the Acceptable Use Policies ("AUP"), as applicable, for any of BCG's third party supplier of hosting services or infrastructure vendors for the BCG Product. Client acknowledges and agrees that the BCG Product, including its availability, security and performance is subject to such terms.

7. Privacy. Client represents and warrants that Client is in compliance with, and will continue to comply with, all applicable privacy and data protection laws and regulations with respect to any Client Personal Data that Client or any Permitted User may provide to BCG directly or through the use of the BCG Product, or that the Client may use in conjunction with the BCG Product. Client retains sole responsibility for collecting any required consents or providing applicable notices to any Permitted Users for the use of the Licensed Materials. If required, Client and BCG will negotiate and enter into a Data Processing Agreement.

8. Feedback. If Client communicates any comment, questions or suggestions to BCG, (collectively, "Feedback") regarding changes to the Licensed Materials, including, without limitation, recommending any new features or functionality, all such Feedback is, and will be treated as, non-confidential and non-proprietary. BCG will not be restricted from using, disclosing, publishing or otherwise exploiting any Feedback without compensating or crediting Client or the Permitted User providing such Feedback, and Client hereby assigns all right, title, and interest in, any Feedback. Client is not obligated to provide any Feedback.

9. Confidentiality. "Confidential Information" of BCG means the Licensed Materials (including without limitation, processes, methodologies, surveys, and techniques utilized in the Licensed Materials). Client's "Confidential Information" means information that Client has provided to BCG and that Client has labelled "confidential" or "proprietary"; provided that Client's "Confidential Information" does not include information that: (a) is or becomes generally known or available by publication, commercial use or otherwise through no fault of BCG; (b) is known by BCG at the time of disclosure and is not subject to restriction on disclosure; (c) is independently developed or learned by BCG without the use of any of Client's Confidential Information. Each party agrees to keep any such confidential information of the other party confidential until such information becomes generally available to the public without the receiving party or its employees or agents breaching their confidentiality obligations hereunder. Each party will exercise at least the same degree of care to protect the other's Confidential Information as it would exercise in protecting its own Confidential Information, but not less than a reasonable degree of care.

10. Term and Termination of the Agreement.

10.1 Term. The Term of this Agreement is set forth in the SaaS Subscription Order Form. However, BCG reserves the right to suspend Client's use of the Licensed Materials or terminate this Agreement, at BCG's sole discretion, in the event (i) Client breaches the license grant to the Licensed Materials, (ii) is otherwise in violation of applicable law or regulations, or (iii) of termination of any agreement BCG has in place with a third party supplier or hosting provider as part of the Licensed Materials, upon providing written notice to Client.

10.2 Termination. Upon termination of this Agreement: (i) all rights and access granted to Client under this Agreement will immediately terminate, and Client will immediately cease use of any Licensed Materials, (ii) Client will pay any accrued amounts owed to BCG under this Agreement, and (iii) Client and BCG will each return to the other or destroy all Confidential Information, documents,

and other records of the other, including archive copies. This paragraph will not supersede BCG's right to retain copies of certain materials under the terms of any consulting agreement with Client.

The sections of this Agreement which by their nature must survive termination or expiration in order to achieve their fundamental purposes will survive termination or expiration of this Agreement.

11. Fees. Client will pay the applicable fees and expenses, if any, as set forth on the SaaS Subscription Order Form ("**Fees**"), and Client will pay each invoice from BCG pertaining to the Fees within thirty (30) days from receipt of each invoice.

If both parties agree that the presence of the BCG information services support team is required at one of the Client's locations, Client will also reimburse BCG for any travel expenses reasonably incurred. Any additional support for a different or larger efforts can be requested any time any BCG can provide a quote.

The Fees set forth herein do not include taxes of any kind (including withholding or value added taxes) imposed by any governmental entity the Licensed Materials provided under this Agreement. If BCG is obligated to collect such taxes, BCG will invoice Client for the appropriate amount. Payment of such invoices will be due upon Client's receipt.

If Client requests a different hosting configuration and BCG agrees, Client will pay the associated costs, including but not limited: the infrastructure costs and incremental support hours. BCG will provide Client with a cost estimate for these services.

12. Warranties and Disclaimer. Except as otherwise expressly set forth in this Agreement, the BCG Product and the Licensed Materials are provided "as is," and BCG makes no warranties of any kind. BCG hereby expressly disclaims, on its own behalf and on behalf of its suppliers, hosting providers and licensors, all express, implied and statutory warranties, including, but not limited to, any implied warranties of merchantability, fitness for a particular purpose, title and non-infringement. BCG does not warrant that the BCG Product or the Licensed Materials will meet Client's requirements or that the use of the BCG Product and the Licensed Materials will be error free. No oral or written information or advice given by BCG or its authorized representatives creates a warranty or in any way increase the scope of this warranty. Some jurisdictions do not allow the exclusion of implied warranties, so the forgoing disclaimer may not apply to Client.
13. Limitation of Liability. In no event will BCG be liable to Client or any third party for special, incidental, consequential, exemplary, punitive, multiple or other indirect damages, or for loss of profits, loss of data or loss of use damages, arising out of the supplying or failure or delay in supplying of the licensed materials or services related thereto, whether based upon warranty, contract, tort (including negligence), strict liability or otherwise, even if BCG has been advised of the possibility of such damages or losses. some states or other jurisdictions do not allow the exclusion or limitation of liability for incidental or consequential damages, so the forgoing limitations and exclusions may not apply to client. BCG's liability in such jurisdictions will be limited to the extent permitted by law. the total aggregate liability for BCG under this Agreement will be greater of the amount of the fees paid by client for the applicable BCG Product or Licensed Materials or \$1,000.
14. Indemnification.
  - 14.1. BCG Indemnification. BCG will indemnify Client against any claim or proceeding brought by a third party against the Client to the extent that claim

or proceeding alleges that the Client's use of the BCG Product in accordance with this Agreement constitutes an infringement of a third party's copy- rights, trademarks, tradenames, trade dress, or service marks ("Claim"). The indemnity is subject to the Client: (i) promptly notifying BCG in writing of the Claim; (ii) making no admission of liability and not otherwise prejudicing or settling the Claim, without BCG's prior written consent; and (iii) giving BCG complete authority and information required for BCG to conduct and/or settle the negotiations and litigation relating to the Claim. The indemnity does not apply to the extent that a Claim arises from or in connection with: (i) the Client's breach of the Agreement; (ii) use of the Licensed Materials in a manner or for a purpose not reasonably contemplated by the Agreement or otherwise not authorized in writing by BCG; (iii) use of a superseded or altered version of the Licensed Materials, if such infringement would have been avoided by use of the Licensed Materials in the version that BCG provided to Client or made generally available; or (iii) any third party data or any Client Data. If at any time a Claim is made, or in BCG's reasonable opinion is likely to be made, then in defense or settlement of the Claim, BCG may (at BCG's option): (i) obtain for the Client the right to continue using the BCG Product which is the subject of the Claim; or (ii) modify, re-perform or replace the BCG Product which is the subject of the Claim so it becomes non-infringing; or (iii) cancel the Agreement and provide Client with a pro- rata refund of any Fees paid for the BCG Product. The foregoing states the entire liability of BCG and sole and exclusive remedies of Client with respect to the infringement, misappropriation or violation of any intellectual property or proprietary rights relating to the BCG Licensed Materials or Services.

- 14.2. Client Indemnification. Client agrees to defend, indemnify, and hold harmless BCG, its affiliates, and their respective directors, officers, partners, members, representatives, agents, successors and assigns, against all claims, costs, and damages, including reasonable attorneys' fees, arising from a third party claim or demand that is based upon, arises or results from, or relates to: (a) Client's or its agent's or any Permitted User's use, operation, or distribution of the Licensed Materials in violation of this Agreement; (b) any damage caused to Licensed Materials by Client's inputting or processing of Client Data; or, (c) Client's failure to obtain the necessary rights, licenses, or consents to provide any Client Data, Client Personal Data, or information Client uses in the BCG Product, or otherwise provides to BCG under this Agreement.

15. Miscellaneous.

- 15.1. Assignment. Client may not assign any of Client's rights or obligations under this Agreement without the prior written consent of BCG. BCG may assign, novate or transfer to a third party its obligations with respect to the installation, hosting and maintenance of the BCG Product, the systems upon which the BCG Product operates, or other functions that provide technical support for the BCG Product. The Client agrees to promptly execute and deliver any documents required by BCG for the purposes of this clause.

- 15.2. Severability. If any provision of this Agreement should become void or unenforceable, the remaining provisions of this Agreement remain in force. The parties agree that the void or unenforceable provision will be replaced by a valid provision that best achieves the commercial intention of the parties. . No failure or delay in exercising any rights hereunder will operate as a waiver thereof, nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right hereunder. Either Party may waive compliance by the other Party with any covenants or conditions contained in the Subscription Agreement only by written instrument signed by the Party waiving such compliance. No such waiver, however, will be deemed to waive any other circumstance or any other covenant or condition not expressly stated in the written waiver.

- 15.3. Entire Agreement. This Agreement, together with the SaaS Subscription Order Form, constitutes the entire agreement between BCG and Client with respect to



the Licensed Materials. BCG and Client may have entered into additional or supplemental agreements outlining the terms of an Engagement (a "Consulting Agreement"). If there is a conflict between this Agreement and the Consulting Agreement, this Agreement will govern.

- 15.4. No Publicity. No party will make any public announcement or press release regarding the Engagement or this Agreement without the prior written consent of the other party; provided, however, BCG has the right to refer to Client as a client of BCG for promotional purposes. Except as required by law, neither BCG Licensed Materials nor reference to BCG may be included or made in any prospectus, proxy statement, offering memorandum or similar document or materials prepared for public distribution.
- 15.5. Force Majeure. Except for Client's payment obligations, neither Party will be liable, nor will any credit allowance or other remedy be provided, for any failure or delay in performance under the Agreement due to fire, explosion, hurricane, earthquake, storm, flood or other weather; public health crisis; unavailability of necessary utilities or raw materials; acts or omissions of suppliers; Internet service provider failures or delays, or denial of service attacks; war, civil unrest, acts of terror, insurrection, riot, acts of God or the public enemy; strikes or other labor problems; any law, act, order, proclamation, decree, regulation, ordinance, or instructions of government or other public authorities, or judgment or decree of a court of competent jurisdiction (not arising out of breach by such Party of the Agreement); or any other event beyond the reasonable control of the Party whose performance is to be excused.
- 15.6. Governing Law. This Agreement is governed in accordance with, and any court action hereunder will apply, the laws of the Commonwealth of Massachusetts, without reference to its conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods, in its entirety, is expressly excluded from this Agreement including, without limitation, application to the Licensed Materials provided hereunder. Furthermore, this Agreement (including without limitation, the BCG Product) will not be governed or interpreted in any way by referring to any law based on the Uniform Computer Information Transactions Act ("UCITA") or any other act derived from or related to UCITA.
- 15.7. The Licensed Materials are "commercial computer software" or "commercial computer software documentation" as those terms are defined in FAR 2.101. Absent a written agreement to the contrary, the U.S. Government's rights with respect to such Licensed Materials are limited by the terms of this Agreement, pursuant to FAR 12.212(a) (Computer Software) and FAR 12.11 (Technical Data) and/or DFARS ' 227.7202-1(a), as applicable.
- 15.8. Notices. All notices required or permitted under this Subscription Agreement will be in writing and will be delivered to Parties at the addresses referenced in Subscription Agreement or as provided in writing by a Party: (a) by hand (and will be deemed to have been received on signature of a delivery receipt or at the time the notice is left at the proper address); or (b) certified mail or deposit with a nationally recognized overnight carrier (and will be deemed delivered at 9.00am on the second Business Day after depositing or, if earlier, the time recorded by the mail service); or (c) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. Notices to BCG are not effective unless a copy is also sent by (a) or (b) to: The Boston Consulting Group, Inc., Attention: Legal Team, 200 Pier 4 Boulevard, Boston, MA 02110, U.S.A.

## SCHEDULE 1

### SOFTWARE AS A SERVICE DESCRIPTION

#### 1. SERVICE LEVEL AGREEMENT (“SLA”)

BCG will use reasonable commercial efforts to provide this service in accordance with the SLA outlined below. In the event that BCG fails to meet these SLA terms below due to any equipment and software issue under the direct control of BCG or its server hosting provider, the Client will be entitled to cancel the service. Cancellation of the service is Client’s sole and exclusive remedy for any failure of BCG to meet the SLA terms. BCG may amend these terms if the terms of its hosting service provider are modified or BCG changes hosting service providers.

#### 2. SERVICE, SUPPORT AND AVAILABILITY

BCG may temporarily shut down the service and/or take additional measures for a period of time in order to maintain, modify, or repair the service. BCG will give the Client as much advance notice as reasonably possible, but some circumstances, such as emergency updates / fixes will limit BCG’s ability to provide advance notice.

##### Scheduled Maintenance

##### 1) FOR INFRASTRUCTURE DEPLOYED IN EUROPE

Every weekend, a window of 5 hours will be reserved, starting Saturday at 7:00 AM Central European Time (1:00 AM US East Coast Time) and ending, on the same day, at 12:00 PM Central European Time (6:00 AM US East Coast Time), to perform scheduled service maintenance, including, but not limited to, service repairs, upgrades, or changes in configuration.

##### 2) FOR INFRASTRUCTURE DEPLOYED IN US

Every weekend, a window of 5 hours will be reserved, starting Saturday at 8:00 AM US East Coast Time (2:00 PM Central European Time) and ending, on the same day, at 1:00 PM US East Coast Time (7:00 PM Central European Time), to perform scheduled service maintenance, including, but not limited to, service repairs, upgrades, or changes in configuration.

Unscheduled Emergency Maintenance - In addition to scheduled maintenance and when required to ensure proper operation of the service, the service may be temporarily shut down to perform service repairs, upgrades, or changes in configuration. BCG will provide the Client with as much notice as reasonably possible prior to initiating maintenance procedures.

Service Availability and Outages - Uninterrupted service is not guaranteed. Historically an overall monthly server availability  $\geq 98\%$  has been the norm. Should non-scheduled server outages due to reasons within BCG’s or its hosting provider’s control exceed 48 hours in a given 30 day period, the Client will be entitled to cancel the service.

Support Availability - Technical support is available from Monday to Friday, 9:00 AM to 5:00 PM Central European Time and 9:00 AM to 9:00 PM US East Coast Time. At all other times, technical support is provided using commercially reasonable efforts. Technical support is not available during India and U.S. business holidays and weekends.

Support Requests / Incident handling - All inquiries by users of the product will be initially routed to the authorized Client Administrator (if there is one). If the authorized Client Administrator is unable to address or resolve the inquiry, the authorized Client Administrator can submit a request to [support@bcg.com](mailto:support@bcg.com) for assistance. If users of the product reach out directly to the Support team, the inquiry will be routed to the authorized Client Administrator.

BCG will respond to service-related incidents and/or requests submitted by the Client Administrator within the following time frames. All response times mentioned below refer to the support availability windows mentioned above.

Priority	Definition and Examples	Initial Response time (90% of responses)	Response
<b>P1</b>	Business critical system down, affecting multiple users – has widespread impact. Examples: • Multiple users unable to access the application • Page doesn't load • Server error leaving the system in an irrecoverable state • Data loss or unavailability	4 hours	Immediate attention, continuous communication. BCG will designate experts to trouble shoot and use diligent efforts to correct the issue or provide with a workaround.
<b>P2</b>	Important/critical feature is not working or down and there is no workaround. Examples: • Search not returning correct results • Import fails and lacks actionable error message • Significant performance degradation	4 hours	Aim to diagnose and perform a root cause analysis in 3 business days and will provide continuous communication. BCG will designate experts and use commercially reasonable efforts to mitigate the impact of the issue.
<b>P3</b>	Any non-critical feature or issue (impacts productivity). Workaround exists but is not optimal. Examples: • Unable to export data, generate reports • Unable to perform bulk updates	1 Day	Via future release consideration. BCG will designate experts to diagnose the issue within 5 business days of receipt of the issue and reply with a proposed solution.
<b>P4</b>	Small, non-critical issue or cosmetic defect (no business impact). Example: • Certain UI elements are rendered incorrectly within supported browsers	1 Day	Via future release consideration. BCG will designate experts to analyze the issue and include the fix in a forthcoming application release.

### 3. UPDATES, UPGRADES AND SECURITY PATCHES

For as long as BCG continues to offer software services, BCG may update, improve, and expand these services. As a result, BCG allows Client to or gives Client automatic access to one or more specific software products as it or they may exist and be available on any given day and has no other obligations, except as expressly stated in this Subscription Agreement. BCG has no obligation to upgrade any versions of software products or services or maintain old versions of these software product(s) or services.

BCG manages and installs all system updates (including web server and database server updates) as it deems necessary in its sole discretion.



<p style="text-align: center;"><b>SCHEDULE 2</b> <b>ACCEPTABLE USE AND CONTENT</b> <b>POLICY</b></p>
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This Acceptable Use and Content Policy applies to all users of a product, platform or service offered by BCG (“Product” or “Products”) pursuant to an agreement in which this policy is linked or referenced (the “Agreement”). You will notify Us promptly of any violation of, this Acceptable Use and Content Policy.

Capitalized terms not defined in this Acceptable Use and Content Policy have the meaning stated in Agreement. As used in this policy and to the extent not otherwise defined in the Agreement, the following terms have the meaning ascribed to each of them below:

“BCG,” “We,” “Our,” and “Us” means The Boston Consulting Group, Inc. or one of its affiliated entities, whichever entity is a party to the Agreement with You.

“Product Materials” means the Product all materials embodied in, or comprising the Product and all intellectual property, proprietary and database rights embodied in, or otherwise applicable to the Product and such materials.

“User Materials” means all data, information and materials entered, loaded, transmitted or processed by users of the Product.

“You” (and derivatives thereof) means the Client, Participant or entity that is the other party to the Agreement with Us.

1. Prohibited Material. The following User Materials are prohibited:
  - a. User Materials that infringe the copyright, trademark, patent, trade secret, or other intellectual property rights, privacy rights, or any other legal or moral rights of any third party according to applicable law;
  - b. User Materials that could reasonably be considered to be defamatory, libelous, hateful, racially, ethnically, religiously or otherwise biased or offensive; unlawfully threatening or unlawfully harassing to any individual, partnership, or corporation; or vulgar, pornographic, obscene or invasive of another’s privacy;
  - c. User Materials intended to advocate or advance computer hacking or cracking;
  - d. User Materials associated with gambling, drug paraphernalia, phishing or illegal activity, including without limitation illegal export of controlled substances or illegal software;
  - e. Malicious User Materials;
  - f. User Materials known by You to be false, inaccurate or misleading; and
  - g. User Materials that violate or encourages conduct that would violate any applicable laws or any third- party rights.

We and Our suppliers have the right to move, remove or modify User Materials to enable Us and them to comply with Our respective legal obligations. We and Our suppliers also have the right to remove User Materials to the extent User Materials are not in compliance with the Agreement.

2. Restrictions. You will not, directly or indirectly, and You will not permit any Authorized Users or any other persons to:
  - a. Reverse engineer, decompile, disassemble or otherwise attempt to discover the object code, source code or underlying ideas or algorithms of the Product;
  - b. Frame, mirror, republish, download, transmit, or distribute the Product Materials except as expressly allowed by the Agreement;
  - c. Modify, translate, or create derivative works based on any element of the Product Materials;
  - d. Use the Product Material to build a product or service that is competitive with the Product;
  - e. Rent, lease, distribute, sell, resell, assign, or otherwise transfer its rights to use the Product (other than as may be permitted expressly in the assignment provisions of the Agreement);
  - f. Use the Product Material solely for internal use and not disclose the Product or Product Materials for use by any third party without prior written consent;
  - g. Use the Product for timesharing purposes or otherwise for the benefit of any person or entity other than for the benefit of You and Authorized Users;
  - h. Remove any proprietary notices from any Product Materials;
  - i. Publish or disclose to third parties any evaluation or benchmarking relating to the Product, or its performance;
  - j. Use the Product for any purpose other than its intended purpose and the scope of use set forth in the Agreement;
  - k. Interfere with or disrupt the integrity or performance of the Product including but limited to attempting to test the vulnerability of the Product Materials or any of Our systems or network used in the provision of the Product Materials, or attempt to breach Our security measures, by any means;
  - l. Introduce any open source software into the Product;
  - m. Introduce any unauthorized or unlawful content, information, data or materials into the Product;
  - n. Attempt to gain unauthorized access to the Product or their related systems or networks;
  - o. Make an unreasonable number of API calls to the Product or put an unreasonable load on the Product; or

- p. Use the Product Materials in the context of any high-risk activity, where the activity conducted with the Product Materials could lead to death, serious injury, physical or environmental damage, including using the Product Materials in connection with any aircraft or other modes of human mass transportation, or with nuclear or chemical facilities.

3. Suspension

- a. We have the right to suspend Your, any Authorized Users' or any other person's access to the Product in the event that any of them are engaged in, or We in good faith suspect any of them are engaged in, any unauthorized conduct (including, but not limited to any violation of the Agreement), if there is an unreasonable load on the Product or if an unreasonable number of API calls are being made to the Product.
  - b. We will attempt to contact You prior to or contemporaneously with any such suspension; provided, however, that Our exercise of the suspension rights herein will not be conditioned upon Your receipt of any notification.
  - c. A suspension may take effect for Your entire account and You understand that such suspension would therefore include its Authorized User sub-accounts.
  - d. You agree that We will not be liable to You, any of its Authorized Users, or any other third party if We exercise its suspension rights as permitted by this Section.
  - e. Upon determining that the unauthorized conduct leading to the temporary suspension has ceased to Our reasonable satisfaction, We will reinstate access to, and use of, the Product.
  - f. Notwithstanding anything in this Section to the contrary, Our suspension of the Product is in addition to any other remedies that We may have under the Agreement or under applicable law or in equity. Additionally, if there are repeated incidences of suspension, regardless of the same or different cause and even if the cause or conduct is ultimately cured or corrected, We may, in Our reasonable discretion, determine that such circumstances, taken together, constitute a material breach.
4. **Compliance with Legal Requirements and Law Enforcement.** We reserve the right to report to law enforcement authorities any actions that may be illegal. When legally required or at Our discretion, We will cooperate with law enforcement agencies in any investigation of alleged illegal activity on the Services. We also have the right to disclose User Data and information about You in response to a subpoena or request from law enforcement. To the extent permitted by law or law enforcement, We will use Our reasonable efforts to contact You in advance and provide reasonable cooperation to assist Your efforts in attempting to challenge or quash any such subpoena or request as long as such cooperation does not require Us to be in violation of any legal requirement.

