

# Redstone Cloud Consulting - Terms and Conditions

## General Terms

### 1 Definitions and interpretation

1.1 In this Agreement the following words and phrases shall have the following Meanings:

“Access Requirements” means the access requirements set out in the Order Form;

“Agreement” has means a contract between the Customer and Redstone Cloud Consulting on the terms of the Order Form, the Redstone Cloud Terms (as set out in below) and (where applicable) the Framework Terms;

“Charges” means the Professional Services Charges;

“Claim” means a claim brought against the Customer that the normal use or possession of the Products or the Documentation in accordance with this Agreement infringes a third party’s copyright;

“Confidential Information” means any information which is designated by the party disclosing it to be confidential (including, in respect of Redstone Cloud Consulting, the Documentation);

“Consultant” means a member of Redstone Cloud Consulting staff or the staff of a partner or sub-contractor used by Redstone Cloud Consulting to deliver professional services;

“Contract Year” means each period of 12 months starting on the date of this Agreement or an anniversary of the date of this Agreement;

“Customer” means the Customer specified on the G-Cloud Call-Off contract;

“Customer Data” means all data belonging to the Customer;

“Customer Failure” means a breach by the Customer of any Customer Responsibilities;

“Customer Location” means a location chosen by the Customer at which they want Redstone Cloud Consulting Consultants to deliver some or all of the Professional Services.

“Customer Responsibilities” means the responsibilities of the Customer set out in this Agreement;

“Data Tools” means tools, processes and applications including reporting tools, business intelligence applications, machine learning models, data discovery and ETL processes, and predictive analytics;

“Deliverable” means a deliverable provided by Redstone Cloud Consulting under this Agreement, including the deliverables set out in the Call Off Agreement;

“Framework Terms” means the terms of G-Cloud or any other framework agreement to which Redstone Cloud Consulting has agreed in writing, where the Customer purchases Services from Redstone Cloud Consulting under the terms of the framework;

“GDPR” means the EU Directive 2002/58/EC and, once in force and applicable, the GDPR and any legislation and/or regulation implementing or made pursuant to them, or which amends, replaces, re-enacts or consolidates any of them from time to time, together with the equivalent laws in any applicable jurisdiction and the guidance and codes of practice issued by supervisory authorities;

“Call Off Agreement” means a Call Off Agreement executed by Redstone Cloud Consulting and the Customer;

“Personal Data” means personal data (as defined in the GDPR) processed by Redstone Cloud Consulting on behalf of the Customer under this Agreement;  
“Professional Services” means the professional services set out in the Call Off Agreement;  
“Professional Services Charges” means the charges for the Professional Services set out in the Call Off Agreement;  
“Project Plan” means any project plan set out in the Order Form.  
“Services” means the services provided by Redstone Cloud Consulting under this Agreement, including (where applicable) the provision of access to the Products and/or the Third Party Products, the Professional Services and/or the Support Services;  
“Third Party Product” means the third party software or service set out in the Call Off Agreement; and  
“Working Days” means Monday to Friday excluding bank and public holidays in the UK;

## 1.2 In this Agreement:

1.2.1 a reference to any law includes a reference to that law as amended, extended, consolidated or re-enacted from time to time;  
1.2.2 the words “including” and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words “without limitation”;  
1.2.3 the headings are for ease of reference only and shall not affect the interpretation or construction of this Agreement; and references to this Agreement are references to this Agreement as amended from time to time.

## 2 Status

2.1 Each Call Off Agreement constitutes a separate contract subject to the Redstone Cloud Consulting Terms;  
2.2 This Agreement will become binding on Redstone Cloud Consulting only from the date that the Call Off Agreement is signed by an authorised representative of Redstone Cloud Consulting;  
2.3 The terms of this Agreement will apply notwithstanding any terms attached to any purchase order or otherwise provided to Redstone Cloud Consulting by the Customer; and  
2.4 If there is any conflict between the Call Off Agreement, the Redstone Cloud Consulting Terms and/or the Framework Terms, the Call Off Agreement will take precedence over the Redstone Cloud Consulting Terms and the Redstone Cloud Consulting Terms will take precedence over the Framework Terms (to the extent permitted under the Framework Terms).

## 3 Customer Responsibilities

3.1 The Customer shall comply with the Customer Responsibilities;  
3.2 The Customer shall provide all cooperation reasonably required by Redstone Cloud Consulting in the provision of the Professional Services, including access to information, staff, systems and locations.  
3.3 The Customer shall comply with any Customer Responsibilities set out in the Order Form in respect of the Professional Services in accordance with any timeframes for such

Customer Responsibilities (including in the latest version of any Project Plan agreed with Redstone Cloud Consulting).

3.4 If there is a Customer Failure then without prejudice to any of Redstone Cloud Consulting's other rights and remedies it:

3.4.1 shall be granted an extension of time in respect of any timeframes agreed by the parties based on the period of delay caused by the Customer Failure; and

3.4.2 shall not be deemed to be in breach of this Agreement where the Customer Failure causes Redstone Cloud Consulting to breach this Agreement.

3.5 Where Redstone Cloud Consulting sends Consultants to deliver Professional Services at a Customer Location, the Customer shall assume a duty of care with regard to the Consultants' health and safety and shall provide them with appropriate access to facilities and equipment and inform them of relevant health and safety procedures and provide them with the same or greater level of protection, comfort and assistance as they would provide to the Customer's own staff.

3.6 Where Redstone Cloud Consulting sends Consultants to deliver Professional Services at a location chosen by the Customer that is not in the UK, the Customer shall assume the duty of care referred to above from the time that the Consultants leave the UK until they return to it. Such duty of care in this case includes but is not limited to provision of advice and assistance on risk of personal injury, disease, and locally applicable laws and customs.

3.7 To allow Redstone Cloud Consulting to provide the Customer with Professional Services relating to public cloud platforms, the Customer will need to provide Redstone Cloud Consulting with the Customer's public cloud login credentials. In providing these credentials, the Customer consents to allowing Redstone Cloud Consulting to access the Customer's public cloud accounts and information for the purpose of the Professional Services. Any activity on the Customer's public cloud account shall remain the Customer's sole and exclusive responsibility. The Customer agrees that Redstone Cloud Consulting shall not be liable or responsible for any matters pertaining to its public cloud account.

## 4 Payment and payment terms

4.1 Redstone Cloud Consulting will invoice the Customer for Charges in accordance with the timeframes set out in the Call Off Agreement.

4.2 The Customer shall pay Charges invoiced by Redstone Cloud Consulting in accordance with clause 4.1 above within 30 days of the date of the invoice.

4.3 If the Customer does not pay any Charges within 30 days of the date of the invoice, Redstone Cloud Consulting may:

4.3.1 suspend provision of all or any of the Services or the Customer's access to the Products; and/or

4.3.2 charge interest at a daily rate on all sums outstanding until payment in full is received whether before or after judgment at a rate of 2% above the base lending rate of Barclay's Bank plc from time to time. Redstone Cloud Consulting reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

4.4 The Customer shall be responsible for any applicable sales, use or value added taxes arising out of or in connection with this Agreement, other than UK corporation tax arising in respect of Redstone Cloud Consulting's income or profits. All payments due are expressed exclusive of UK Value Added Tax, which will be invoiced in addition where applicable.

4.5 The Customer shall reimburse Redstone Cloud Consulting for any reasonable travel and out-of-pocket expenses it incurs in the course of providing the Services.

4.6 Redstone Cloud Consulting may increase the Charges from time to time. The revised Charges shall take effect in accordance with any timeframes notified to the Customer by Redstone Cloud Consulting from time to time.

4.7 The process for resolving any disputes about invoices will be that the Customer pays the invoiced sum by the due date and that Redstone issues a credit note if it is subsequently shown to have invoiced the wrong amount.

4.8 The Customer shall pay the Professional Services Charges including any applicable travel and subsistence charges in accordance with the timeframes set out in the Order Form.

4.9 Unless otherwise specified in the Order Form, Redstone will charge travel and subsistence charges for Consultants when they visit Customer Locations. Redstone is happy to match the Customer's travel policy for their staff if this is provided and will otherwise base the scale of these charges on use of second class public transport where available, business hotels and typical prices for meals in restaurant chains.

## 5 Warranties

5.1 Each party warrants that it has full capacity and authority to enter into and perform this Agreement.

5.1 Redstone Cloud Consulting warrants that it will provide the Services with reasonable skill and care and that the Services will be of a professional quality conforming to generally accepted computer service industry practices. The Customer shall notify Redstone Cloud Consulting of any failure to comply with this warranty within 90 days of the provision of the relevant Services. The Customer's sole remedy against Redstone Cloud Consulting for any such failure

## 6 Intellectual Property Rights

6.1 Redstone Cloud Consulting owns, or is licensed to use, all copyright and other intellectual property rights the Documentation.

6.2 Redstone Cloud Consulting will own any Intellectual Property Rights it creates in the course of providing the Services (including any Intellectual Property Rights in Deliverables).

6.3 Save as expressly set out in this Agreement, the Customer does not acquire any rights in the Services.

## 7 Limitation of liability

7.1 Nothing in this Agreement shall exclude or restrict the liability of either party to the other for death or personal injury resulting from the negligent act of one party or for liability for any fraudulent misrepresentation by either party.

7.2 Subject to clauses 7.1, and 7.3, the liability of Redstone Cloud Consulting to the Customer for direct loss in contract, tort or otherwise arising out of or in connection with this Agreement, the Customer's use of the Documentation and/or the Services shall be limited in aggregate during each Contract Year to the greater of £1,000 and the total Charges paid by the Customer to Redstone Cloud Consulting during the relevant Contract Year.

7.3 Subject to clause 7.1, in no circumstances shall Redstone Cloud Consulting be liable to the Customer in contract, tort, negligence, breach of statutory duty or otherwise in respect of

any of the following arising out of or in connection with this Agreement or the Customer's use of the Documentation or the Services:

7.3.1 loss of profits, anticipated savings, revenue, goodwill or business opportunity;

7.3.2 any indirect, consequential, financial or economic loss or damage, costs or expenses;

7.3.3 loss of availability arising out of or in connection with the Services or otherwise under, in connection with or in relation to this Agreement; or

7.4 If any of the limitations on Redstone Cloud Consulting's liability under this Agreement are adjudged to be unreasonable in the circumstances, then such limitation shall be increased to the amount that Redstone Cloud Consulting can recover from its insurer for the loss in question.

7.5 The payments due under this Agreement have been negotiated and agreed on the basis that the parties may exclude or limit their liability to each other as set out in this Agreement. The parties each confirm that they will themselves bear or insure against any loss for which the other party has limited or excluded liability under this Agreement.

## 8 Term

8.1 This Agreement shall commence on the date of this Agreement and shall continue until the termination or expiry of this Agreement of all the Services.

## 9 Termination

9.1 Either party may terminate the Professional Services by giving the other party not less than one month's notice in writing unless the Order Form specifies a longer termination period, in which case the details on the Order Form will prevail

9.1 Either party may terminate this Agreement by giving written notice to the other if the other commits a material or persistent breach of any term of this Agreement and that breach (if capable of remedy) is not remedied within 30 days of written notice being given requiring it to be remedied (and where such breach is not capable of remedy, the relevant party shall be entitled to terminate the Agreement with immediate effect).

9.3 This Agreement may be terminated by either party if an interim order is made, or a voluntary arrangement approved, or if a petition for bankruptcy order is presented or a bankruptcy order is made against the other party or if a receiver or trustee is appointed of the other party's estate or a voluntary arrangement is approved or a notice is served of intention to appoint an administrator or an administrator is appointed by Court order or by any other means, or a receiver or administrative receiver is appointed over any of the other party's assets or undertaking or a resolution or petition to wind up the other party is passed or presented (otherwise than for the purposes of reconstruction or amalgamation), or if any circumstances arise which entitle the Court or a creditor to appoint a receiver, administrative receiver or administrator or to present a winding up petition or make a winding up order or any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the above events.

9.4 Termination of this Agreement shall not relieve the Customer of its obligation to pay any Charges that have accrued prior to termination.

9.5 Any termination of this Agreement shall be without prejudice to any other rights or remedies either party may be entitled to under this Agreement or at law.

9.6 Following termination of this Agreement (by either party for whatever reason) the Customer shall:

9.6.1 within seven days at Redstone Cloud Consulting's option, either return to Redstone Cloud Consulting or destroy all copies of the Documentation in its possession and a duly authorised officer of the Customer shall certify in writing to Redstone Cloud Consulting that the Customer has complied with such obligation.

## 10 Confidentiality

10.1 Neither party shall during the term of this Agreement or for a period of five years after expiry or termination of this Agreement:

10.1.1 divulge or communicate to any person, company, business entity or other organisation;

10.1.2 use for its own purposes or for any purposes other than those of the other party; or

10.1.3 through any failure to exercise due care and diligence, cause any unauthorised disclosure of any trade secrets or Confidential Information relating to the other party. These restrictions will cease to apply to any such information that becomes available to the public generally other than through a breach of a duty of confidentiality owed to the other party.

Neither party shall be restricted from disclosing the Confidential Information or any part of it pursuant to a judicial or other lawful government order, but only to the extent required by such order and subject to the party obliged to comply with such order giving the other party as much notice of the terms of the order as may be reasonably practicable.

10.2 Nothing in this clause 10 shall prevent:

10.2.1 Redstone Cloud Consulting from including the name of the Customer in its publicity materials to reference the Customer's use of the Services.

10.3 Redstone Cloud Consulting acknowledges that the Customer is a public authority for the purposes of the Freedom of Information Act 2000 and may be required to disclose information about this Agreement to enquirers in accordance with the provisions of that Act. The Customer shall, where possible, notify Redstone Cloud Consulting in writing of any requests it receives for Confidential Information relating to Redstone Cloud Consulting and shall discuss with Redstone Cloud Consulting prior to the disclosure of such information any exemptions that may apply to such Confidential Information.

## 11 GDPR

11.1 This contract provides written authorisation (GDPR Article 29) for Redstone Cloud Consulting to provide services to the Customer (which is the 'Data Controller') as a 'Data Processor' (each as defined in the GDPR) in respect of any Personal Data.

11.2 Redstone Cloud Consulting provides services using one or more of the AWS, Microsoft, Google platforms which means that one or more of those companies is a sub-processor for this service to Redstone Cloud Consulting. In order to comply with GDPR Article 28.2, acceptance of this contract provides Redstone Cloud Consulting with written authorisation from the Customer to use those companies as a sub-processor. No additional sub-processors will be used by Redstone Cloud Consulting without prior written authorisation from the Customer.

11.3 Redstone Cloud Consulting will work with the appropriate supervisory organisation (GDPR Article 31), which in this legal jurisdiction is assumed to be the Information Commissioner's Office (ICO), where necessary and required.

11.4 Redstone Cloud Consulting will take appropriate measures to ensure the security of data processing activities, which are detailed in our Staff Handbook.

11.5 Where services are provided using public cloud platforms, Redstone Cloud Consulting will work with the Customer to suggest, design, implement and maintain appropriate tools and services to meet record security requirements (GDPR Article 32). The Customer has the option to accept or reject any security recommendations e.g. for cost reasons.

11.6 If the Customer rejects, or does not otherwise implement, the appropriate record security measures as indicated by Redstone Cloud Consulting and/or its public cloud sub-processors (as described in 12.2), neither Redstone Cloud Consulting nor its public cloud sub-processors will be liable for any financial penalty, or other material loss, in the event of a 'personal data breach' as defined by GDPR Article 33.

11.7 If Redstone Cloud Consulting detects a 'personal data breach' as defined by GDPR Article 33, it will notify the Customer within 8 working hours.

11.8 Redstone Cloud Consulting does not require a Data Protection Officer as defined by GDPR Article 37.

11.9 The Customer shall obtain all consents and provide all notices necessary to enable Redstone Cloud Consulting to receive and process the Personal Data for the purpose of providing the Services.

11.10 Redstone Cloud Consulting will:

11.11 process the Personal Data only on the instructions of the Customer as set out in this Agreement; and

11.12 put in place all reasonable technical and organisational security measures in respect of the Personal Data, as set out in this Agreement and agreed by the Customer.

## 12 Bribery and corruption

12.1 The Customer shall:

12.1.1 comply with all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption including the Bribery Act 2010;

12.1.2 have and maintain in place throughout the term of this Agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with clause 12.1.1 above; and

12.1.3 promptly report to Redstone Cloud Consulting any request or demand for any undue financial or other advantage of any kind received by the Customer in connection with the performance of this Agreement.

## 13 General

13.1 The failure or delay of Redstone Cloud Consulting to exercise or enforce any right under this Agreement shall not operate as a waiver of that right or preclude the exercise or enforcement of it at any time.

13.2 Neither party shall be liable for any delay in or for failure to perform its obligations under this Agreement, other than an obligation to make any payment due to the other party, if that

delay or failure is caused by circumstances beyond the control of that party including fires, strikes, insurrection, riots, embargoes, or regulations of any civil or military authority.

13.3 The Customer shall not seek directly or through any third party to employ permanently or temporarily engage personnel who are supplying Services during the term of this Agreement or for six working months after termination or expiry of this Agreement. Any such approach shall result in payment by the Customer of damages including loss of revenue and expertise. As an agreed pre-estimate of damages, this sum shall be 6 working months of the standard price applicable to the person(s) affected and payable upon presentation of its invoice by Redstone Cloud Consulting.

13.4 This Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter of this Agreement and supersedes, cancels and replaces all prior agreements, licences, negotiations and discussions between the parties relating to it. The Customer acknowledges that it has not been induced to enter into this Agreement by, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) not expressly incorporated into this Agreement. However, nothing in this Agreement will exclude either party's liability for any fraudulent statement or act.

13.5 No variation of this Agreement shall be valid unless it is in writing and signed by an authorised representative of each of the parties.

13.6 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement, and nothing in this Agreement shall confer or purport to confer on any third party any benefit or any right to enforce any term of this Agreement or operate to give any third party the right to enforce any term of this Agreement.

13.7 If any provision of this Agreement is held to be unlawful, invalid or unenforceable, in whole or in part, under any enactment or rule of law, such provision or part shall to that extent be severed from this Agreement and rendered ineffective as far as possible without modifying or affecting the legality, validity or enforceability of the remaining provisions of this Agreement which will remain in full force and effect.

13.8 Any notice to be given under this Agreement shall be in writing and shall be delivered by hand, sent by first class post to the address of the other party set out in this Agreement (or such other address as may have been notified in the Call Off Agreement) or sent by email to the address notified in the Call Off Agreement or from time to time. Any such notice or other document shall be deemed to have been served: if delivered by hand - at the time of delivery; if sent by post - upon the expiration of 48 hours after posting; and if sent by email - immediately unless the sender receives notice from the recipient that that the email has not been received.

13.9 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

13.10 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

## 14 Customer Data

14.1 In the course of providing the Services, Redstone Cloud Consulting may use Data Tools that access and/or use the Customer Data and the Customer hereby agrees to this use.



14.2 Redstone Cloud Consulting will own all right and title in and to the output of such use, including all related metadata and know-how ("Output").

14.3 Redstone Cloud Consulting's use of the Data Tools pursuant to clause 14.1 above will not involve any access to and/or use of Personal Data and, accordingly, the Output will not contain any Personal Data.

14.4 The Customer Data will remain the property of the Customer and/or its licensors and, save Redstone Cloud Consulting's right to access and use the Customer Data pursuant to clause 14.1 above, Redstone Cloud Consulting will not acquire any right in or title to the Customer Data

## 15 Professional Services

15.1 Subject to clause 15.2 below, Redstone Cloud Consulting will provide the Professional Services to the Customer.

15.2 Redstone Cloud Consulting will use reasonable endeavours to deliver any Deliverables to meet the Customer's requirements as set out in the Order Form. However Redstone Cloud Consulting cannot warrant that the Deliverables will meet the Customer's requirements or that they will deliver a particular output or result.

15.3 Redstone Cloud Consulting will use reasonable endeavours to meet any delivery dates set out in the latest version of any Project Plan agreed with the Customer (including in respect of the delivery of any Deliverables). Time is not of the essence in respect of any of Redstone Cloud Consulting's obligations relating to the Professional Services.

15.4 The Customer shall be deemed to accept any Deliverables received from Redstone Cloud Consulting under this Agreement seven days after delivery.