

G-Cloud: Specialist Cloud Support - Terms and Conditions

1. Introduction

The Terms and Conditions Specialist Cloud Services ("SERVICES") govern the provision of such services by Posterity Limited ("Posterity") under a call-off agreement ("Call-Off Agreement") as defined in the UK Government Procurement Services G-Cloud Services Framework Agreement between Posterity and the Government Procurement Service ("Framework Agreement"). They apply between Posterity and each party ("the Customer") entering into a Call-Off Agreement.

2. Charges

- a. The Customer is charged on a daily basis at the rates quoted in the Service Description and / or Call-Off Agreement. Fractions of a day are charged on an hourly pro rata basis.
- b. These rates do not include Value Added Tax, which will be added to the amount of an invoice at the prevailing rate.
- c. The charges quoted will be fixed for the period of service provision or 12 months, whichever is the shorter. Revised charges will be included in any published updates to the Service Description.

3. The Working Day and Overtime

The normal working day is eight hours. This may be subject to alteration by mutual agreement for work carried out on the Customer's premises. Overtime is charged at time and a half, and work necessarily carried out during weekends, or public holidays is charged at double time.

4. Invoicing

- a. Unless specified otherwise in the Call-Off Agreement, invoices are submitted at the end of each calendar month, together with a report detailing activity and achievement for the project that month. All invoices are payable 28 days after the date on the invoice. If you do not pay an invoice within 28 days of the date of the invoice, we may charge you interest at the rate set by legislation.
- b. Our fees may reflect not only time spent, but also may include any time spent travelling for the purpose of the services that cannot be used productively for other purposes.
- c. You will pay any agreed reasonable expenses that we incur.
- d. All taxes, including VAT, that are due in relation to our goods and services must be paid in full.

5. Duties of Posterity

- a. Posterity shall assign personnel of appropriate qualification and experience to perform the SERVICES.
- b. Posterity shall use all reasonable efforts to avoid changes to the personnel named in the Call-Off Agreement to perform the SERVICES. In the event of any such named personnel being unavailable to perform the SERVICES, Posterity shall make all reasonable efforts to promptly replace such individual with another person of

equivalent competence and experience. Posterity will exercise reasonable skill and care in performing the SERVICES and shall comply with the reasonable requests and directions of the Customer including complying with reasonable health, safety and security policies advised to Posterity by the Customer while working on the Customer's premises.

6. Duties of the Customer

- a. The Customer shall, at its own expense, supply Posterity with all documents, software, inventions, data or other materials and instructions necessary to perform the SERVICES in accordance with the Contract and shall retain copies of any such documents, software, data or other materials so supplied.
- b. The Customer shall provide Posterity with access to all personnel of the Customer and to its systems and software and, where Posterity is required to work on the Customer's premises, accommodation and other assistance as may be necessary for performing the SERVICES.
- c. The Customer shall, at its own expense, arrange all interviews and meetings with its own personnel that may have been agreed in any project plan forming part of the SERVICES.
- d. The Customer confirms that it has or shall obtain appropriate insurance to cover Posterity employees against loss or injury whilst performing the SERVICES at the Customer's premises or elsewhere (other than Posterity premises) on its behalf.
- e. Our performance depends on you performing your obligations under the agreement. We are not liable for any loss arising from you not fulfilling your obligations.

7. Cancellation

- a. When an end date has not been specified SERVICES involving the supply of staff on a time and materials basis, should either the Customer or Posterity wish to terminate such provision prematurely, unless agreed otherwise the terminating party shall give 20 working days written notice to the other.
- b. Fees payable on cancellation. You agree to pay Posterity for all services we perform up to the date of termination. Where notice is given but no additional services are required up to the termination date, then a fee is payable for that period as if services have been provided. Where there is a fixed fee for services, you agree to pay us for the services that we have performed on the basis of the time spent at our then current daily rates, up to the amount of the fixed fee. Any contingent element of the fees will remain payable in accordance with the Call-Off Agreement. If a contingent fee cannot be paid for regulatory reasons, you agree to pay for the work carried out under the contingent fee arrangement on the basis of time spent, unless alternative arrangements have been agreed.

8. Supplementary Documentation

During the course of supply, Posterity's obligations in respect of service provision may be further detailed in documents such as a Proposal, Project Plan or Specification ("Additional Documents"), which when referenced in the Call-Off Agreement will form part of the agreement between Posterity and the Customer. Time shall not be of the essence in relation to the performance of such service provision.

9. **Posterity, Associated firms and subcontractors**
 - a. We may use other associated firms (each of which is a separate and independent legal entity) or subcontractors to provide the services. We remain solely and wholly responsible for the services.
 - b. Restriction on claims – You agree not to bring any claim (including one in negligence) against another associated firm (or its partners, members, directors or employees) or our subcontractors in connection with the services.
 - c. Group members – You will ensure that no group member, including your subsidiaries, associated companies and any holding company (unless a party to the agreement), both while they are a group member and thereafter, brings any claim against Posterity, Associated firm (or its partners, members, directors or employees) or our subcontractors in respect of any liability relating to the services or the agreement.
10. **Change Control**
 - a. If additional work or expense is incurred by Posterity as a result of a change in the Specification or Project Plan being made by the Customer, or by a failure or delay by the Customer in meeting his obligations in connection with the delivery of the Services, then such additional work or expense will be reasonably charged to the Customer over and above the price set in the Call-Off Agreement.
 - b. Any change proposed by either Posterity or the Customer will be negotiated and agreed before the change is implemented. Changes involving additional consultancy will be priced using the standard or overtime consultancy rates as set out in the Call Off- Agreement or SFIA Rate Card.
 - c. Posterity will be entitled to charge for the work involved in preparing and responding to Customer change requests, whether or not the Customer agrees to go ahead with them.
11. **Acceptance**

Once any specified deliverables have been made available to the Customer they shall be deemed accepted ("Acceptance") and the Customer shall, if requested to do so, provide an Acceptance Certificate. Where no acceptance criteria have been specified then Acceptance will be on delivery.
12. **Matters beyond reasonable control**

No party will be liable to another if it fails to meet its obligations due to matters beyond its reasonable control.
13. **Liability**

You agree that the total liability (including interest) for all claims connected with the services or the agreement (including but not limited to negligence) is limited to the fees payable for the services (excluding VAT) or £1,000,000, whichever is the greater.
14. **Entire agreement**

The agreement forms the entire agreement between the parties in relation to the services. It replaces any earlier agreements, representations or discussions.
No party is liable to any other party (whether for negligence or otherwise) for a representation that is not in the agreement.

15. **Assignment**

No party may assign, transfer or deal with their rights or obligations under the agreement without prior written consent, but we may novate the agreement to a transferee of all or part of our business. This novation will take effect on written notice from us so that (i) the transferee will be substituted for us with effect from the date specified in the notice and we will no longer have any rights and obligations under the agreement except in respect of work performed prior to that date and (ii) the combined aggregated liability of us and the transferee will not exceed the limit of our liability before the novation took place.