Subscription Agreement

Last Updated: 15th May 2022

This Subscription Agreement is between you, the customer (the "**Customer**", "**you**" or "**your**"), and **Cloudoko Ltd** a company incorporated and registered in England and Wales with company number 09294405 and having its registered office is at 1 Derwent Business Centre, Clarke Street, Derby, England DE1 2BU ("**Cloudoko**", "**we**", "**us**", or "**our**"). It consists of the terms and conditions below, as well as the Order Form, and the Service Offering for your Subscription (together, the "Agreement").

1. Definitions

Any reference in this Agreement to "day" will be a calendar day.

"**Affiliate**" means any legal entity that a party owns, that owns a party, or that is under common ownership with a party. "Ownership" means, for purposes of this definition, control of more than a 50% interest in an entity.

"**Authorised User**" means any person you permit to access the Portal.

"**Business Day**" means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

"**Cloudoko Form**" means each form provided to you by us as part of the Services.

"**Confidential Information**" means information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 11.

"**Customer Data**" is defined in clause 10.

"**Documentation"** is the documents made available to you by us via http://www.cloudoko.com or such other web address notified by us to you from time to time which sets out a description of the Services and the user instructions for the Services.

"**Effective Date**" the effective date as identified on the Order Form.

"**Non-Cloudoko Product**" is any product not supplied by us.

"**Normal Business Hours**" 9.00am to 17.00pm local UK time, each Business Day.

"**Order Form**" is the services order form signed by you and us and dated.

"**Portal**" means the My Cloudoko portal at http:/www.cloudoko.com/admin through which you manage the Cloudoko forms , or at an alternate website we identify.

"**Product**" means the online software applications provided by us as part of the Services.

"**Service Offering**" means the pricing and related terms applicable to a Subscription, as published at http://www.cloudoko.com/service-offerings/.

"**Services**" means any of the Cloudoko-hosted online services and Products subscribed to by you under this Agreement via http://www.cloudoko.com or any other website notified to you by us from time to time, as more particularly described in the Documentation.

"**Subscription**" means the subscription purchased by you in accordance with clause 2 which entitles the Authorised Users to access and use the Services.

"**Subscription Fee**" has the meaning set out in clause 13(1).

"**Subscription Term**" means the period from the Effective Date until the Agreement is terminated in accordance with clause 3 (1).

Other definitions:

i. Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement.
ii. A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.
iii. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
iv. Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
v. A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this Agreement.
vi. A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this Agreement under that statute or statutory provision.
vii. A reference to writing or written includes faxes but not e-mail.

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viii. Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

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2. Use of Cloudoko Services

1. Subject to you purchasing a Subscription, the restrictions set out in this clause 2(1) and the other terms and conditions of this Agreement, we grant to you a non-exclusive, non-transferable right to permit the Authorised Users to use the Services during the Subscription Term. You shall ensure that the Authorised Users use the Services in accordance with this Agreement.

2. You shall not access, store, distribute or transmit any Viruses, or any material during the course of your use of the Services that:

    (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;

    (b) facilitates illegal activity or promotes unlawful violence;

    (c) is discriminatory in any way; or

    (d) is otherwise illegal or cause damage or injury to any person or property.

3. We reserve the right, without liability or prejudice to our other rights, to disable your access to any material that breaches clause 2(2) above.

4. You shall not (except as may be allowed by any applicable law which cannot be excluded):

    (a) copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit or distribute all or any portion of the Services and/or Documentation in any form or media or by any means (except to the extent expressly permitted under this Agreement); or

    (b) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Services or Documentation; or

    (c) access the Products and/or Documentation in order to build a product or services that competes with the Services; or

    (d) license, sell, rent, lease, transfer, assign, distribute, display, disclose or otherwise commercially exploit the Services and/or Documentation or make the Services and/or Documentation available to any third parties other than the Authorised Users without our prior written consent.

5. You shall use reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, if you become aware of any such unauthorised access, you shall promptly notify us.

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3. Subscription termination, and suspension

1. You may terminate a Subscription at any time in accordance with the applicable Service Offering provided that termination shall occur at 23:59 on the final day of the month next following expiry of the relevant notice period. Upon termination by you under this clause 3(1), you shall pay all amounts due and owing before the termination becomes effective. The Service Offerings applicable to your Subscription will set out any early termination charge and alternative termination rights that may be available to the parties.

2. We may, at our sole discretion, suspend your use of the Services and/or terminate your Subscription and/or this Agreement with immediate effect:

   (a) If it is reasonably necessary to prevent unauthorized access to Customer Data;

   (b) If you commit a breach of this Agreement (including of any document referred to within this Agreement) which is irremediable or (if such breach is remediable), you fail to remedy such breach within 15 Business Days of being notified to do so;

   (c) If you do not pay amounts due under this Agreement and such amount remains unpaid for a period of at least 30 days from the date of the relevant invoice;

   (d) at any time following 6 (six) months' notice.

   If we suspend your use of the Services in accordance with clause 3(2) above, then such a suspension will apply to the minimum necessary part of the Services and will be in effect only while the reason for the suspension as set out in clause 3(2) exists.

3. We will give as much notice as is reasonably possible, taking into account the type and seriousness of the reason for the suspension. For suspension due to non-payment we will provide you with at least 30 days' notice.

4. If you do not address the reasons for the suspension to our satisfaction within 60 days of the date of suspension, we shall be entitled to terminate your Subscription and/or this Agreement and delete any Customer Data without retention. If we are required to suspend the Services more than twice in any 12-month period we shall be entitled to terminate this Agreement and your Subscription.

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4. Our Obligations

1. We undertake that the Services will be performed substantially and materially in accordance with the Documentation and with reasonable skill and care.

2. The undertaking at clause 4(1) shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to our instructions, or modification or alteration of the Services by any party other than us or our duly authorised contractors or agents. If the Services do not conform to the foregoing undertaking, we will, at our expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide you with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes our sole and exclusive remedy for any breach of the undertaking set out in clause 4(1). Notwithstanding the foregoing, we:

    (a) do not warrant that your use of the Services will be uninterrupted or error-free; or that the Services, Documentation and/or the information obtained by you through the Services will meet your requirements; and

    (b) are not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and you acknowledge that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

3. This Agreement shall not prevent us from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this Agreement.

4. We warrant that we have and will maintain all necessary licences, consents, and permissions necessary for the performance of our obligations under this Agreement.

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5. Your obligations

You shall:

1. provide us with:

   (a) all necessary co-operation in relation to this Agreement; and

   (b) all necessary access to such information as may be required by us in order to provide the Services, including but not limited to Customer Data, security access information and configuration services;

2. comply with all applicable laws and regulations with respect to your activities under this Agreement;

3. carry out all other responsibilities set out in this Agreement in a timely and efficient manner. In the event of any delays in your provision of such assistance we may adjust any agreed timetable or delivery schedule as reasonably necessary;

4. ensure that the Authorised Users use the Services, the Products and the Documentation in accordance with the terms and conditions of this Agreement and shall be responsible for any Authorised User's breach of this Agreement;

5. obtain and shall maintain all necessary licences, consents, and permissions necessary for us, our contractors and agents to perform our obligations under this Agreement, including the Services;

6. ensure that your network and systems comply with the relevant specifications provided by us from time to time; and

7. be solely responsible for procuring and maintaining your network connections and telecommunications links from your systems to our data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to your network connections or telecommunications links or caused by the internet.

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6. Indemnity

1. You shall defend, indemnify and hold us harmless against any claims, actions, proceedings, losses, damages, expenses and costs (including court costs and reasonable legal fees) arising out of or in connection with your use of the Services, and/or Documentation, provided that (i) we provide you with reasonable co-operation in the defence and settlement of the claim (at your expense); and (ii) that you are given sole authority to defend or settle the claim.

2. We shall indemnify you, your officers, directors and employees against any claim that the Services, and/or Documentation infringes any United Kingdom patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality provided that: (i) we are given prompt notice of any such claim; (ii) you provide us with reasonable co-operation in the defence and settlement of such claim (at our expenses); and (iii) we are given sole authority to defend and settle the claim.

3. Neither we, our employees, agents, nor sub-contractors shall be liable to you to the extent that the alleged infringement is based on:

    (a) modification of the Services or Documentation by anyone other than us;

    (b) your use of the Services, Products or Documentation in a manner contrary to our instructions; or

    (c) your use of the Services or Deliverables after notice of the alleged or actual infringement from us.

4. This clause 6 together with clause 7 set out your sole and exclusive rights and remedies and our employees', agents' and sub-contractors' entire obligations and liability for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

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7. Limitation of liability

1. This clause 7 sets out our entire financial liability to you (including any liability for the acts or omissions of our employees, agents and sub-contractors):

    (a) arising under or in connection with this Agreement;

    (b) in respect of any use made by you of the Services and Documentation or any part of them; and

    (c) in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.

2. Our liability in respect of the Cloudoko Forms terminates as soon as the relevant Cloudoko Form is successfully submitted to the end user within your business.

3. Except as expressly and specifically provided in this Agreement:

    (a) you assume sole responsibility for results obtained from your use of the Services and the Documentation, and for conclusions drawn from such use. We shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts that you provided to us in connection with the Services (including the Cloudoko Forms), or any actions taken by us as a result of your instructions; and

    (b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement.

4. Nothing in this Agreement excludes or limits the liability of either party:

    (a) for death or personal injury caused by negligence;

    (b) for fraud or fraudulent misrepresentation; or

    (c) for any other liability that cannot be limited or excluded by law.

5. Subject to clause 7(3) and clause 7(4):

    (a) we shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Agreement; and

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(b) our total aggregate liability in contract (including pursuant to an indemnity) tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited in each consecutive period of 3 (three) months (the first such period commencing on the Effective Date) to the total Subscription Fees paid during that 3 (three) month period.

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8. Software

1. To enable optimal access and use of certain Services, you may install and use certain Software in connection with your use of the Services. The number of copies of the Software you will be permitted to use or the number of devices on which you will be permitted to use the Software will be as described in the Service Offering. We may check the version of the Software you are using and recommend or download updates, with or without notice, to your devices. Failure to install updates may affect your ability to use certain functions of the Services. You must uninstall the Software when your right to use it ends. We may also disable it at that time. Your rights to access Software on any device do not give you any right to implement Cloudoko patents or other Cloudoko intellectual property in software or devices that access that device.

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9. Availability of the Services

1. We shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for:

   (a) planned maintenance carried out during the maintenance window of 10.00pm to 2.00am UK time; and

   (b) unscheduled maintenance performed outside Normal Business Hours (notice of which will be given, where reasonably practicable, in advance of the commencement of such unscheduled maintenance).

2. We will, as part of the Services and at no additional cost to you, provide you with our standard customer support services during Normal Business Hours.

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10. Customer data

1. You shall own all right, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data.

2. We will, in providing the Services, comply with our policy relating to the privacy and security of the Customer Data available at http://www.cloudoko.com/docs/en-gb/privacyandsecurity.pdf or such other website address as may be notified to you from time to time, as such documents may be amended from time to time by us in our sole discretion.

3. If we process any personal data on your behalf when performing our obligations under this Agreement, the parties record their intention that we shall be the data processor and you shall be the data controller and in any such case:

   (a) you acknowledge and agree that the personal data may be transferred or stored outside the EEA or the country where you and the Authorised Users are located to enable us to carry out the Services and comply with our other obligations under this Agreement;

   (b) you shall ensure that you are entitled to transfer the relevant personal data to us so that we may lawfully use, process and transfer the personal data in accordance with this Agreement on your behalf;

   (c) you shall ensure that the relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer as required by all applicable data protection legislation; and

   (d) each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage.

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11. Confidentiality

1. Each party may be given access to Confidential Information from the other party in order to perform its obligations under this Agreement. A party's "Confidential Information" shall not be deemed to include information that:

   (a) is or becomes publicly known other than through any act or omission of the receiving party;

   (b) was in the other party's lawful possession before the disclosure;

   (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure;

   (d) is independently developed by the receiving party, which independent development can be shown by written evidence; or

   (e) is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.

2. Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this Agreement.

3. Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement.

4. Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.

5. You acknowledges that details of the Services, and the results of any performance tests of the Services, constitute our Confidential Information.

6. We acknowledges that the Customer Data is your Confidential Information.

7. This clause 11 shall survive termination of this Agreement, however arising.

8. No party shall make, or permit any person to make, any public announcement concerning this Agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

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12. Third party providers

You acknowledge that the Services may enable or assist you to access the website content of, correspond with, integrate to, and purchase products and services from, third parties via third-party websites or software and that you do so solely at your own risk. We make no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by you, with any such third party. Any contract entered into and any transaction completed via any third-party website is between you and the relevant third party, and not us. We recommend that you refer to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. We do not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.

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13. Charges and payment

1. You will pay the fees outlined in the Service Offering in accordance with this clause 13 (the "**Subscription Fees**").

2. You will on the Effective Date provide to us approved purchase order information and any other relevant valid, up-to-date and complete contact and billing details.

3. We may invoice you at any time after the commencement of a month in respect of the fees due in respect of that month. You shall pay each invoice in full and cleared sums no later than 30 days following the date of such invoice.

4. If we have not received payment within 30 days after the due date, and without prejudice to any other rights and remedies to us:

    (a) we may, without liability to you, disable your access to the Portal and the Services, and will be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and

    (b) interest shall accrue on a daily basis on such due amounts at an annual rate equal to 3% over the then current base lending rate of HSBC Bank plc, commencing on the due date and continuing until fully paid, whether before or after judgment. You shall pay the outstanding amount together with the interest due.

5. All amounts and fees stated or referred to in this Agreement:

    (a) shall be payable in GBP;

    (b) non-cancellable and non-refundable; and

    (c) are exclusive of value added tax, which shall be added to invoice(s) at the appropriate rate.

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14. Proprietary Rights

1. You acknowledge and agree that we and/or our licensors own all intellectual property rights in the Services, and the Documentation. Except as expressly stated herein, this Agreement does not grant you any rights to, or in, patents, copyright, database right, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licences in respect of the Services or the Documentation.

2. We confirm that we have all the rights in relation to the Services and the Documentation that are necessary to grant all the rights we purport to grant under, and in accordance with, the terms of this Agreement.

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15. Dispute Resolution

1. If a dispute arises out of or in connection with this Agreement or the performance, validity or enforceability of it, or in relation to amounts due under the Agreement, (a **"Dispute**") then except as expressly provided in this Agreement, the parties shall follow the procedure set out in this clause:

    (a) either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (the "**Dispute Notice**"), together with relevant supporting documents. On service of the Dispute Notice, the parties shall attempt in good faith to resolve the Dispute; and

    (b) if the parties are for any reason unable to resolve the Dispute within 30 days of service of the Dispute Notice, the Dispute shall be referred to senior authorised representatives of both parties who shall attempt in good faith to resolve it. If the senior authorised representatives are unable to resolve the Dispute, either party may attempt to settle the Dispute by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing to the other party to the Dispute, requesting a mediation. A copy of the notice should be sent to CEDR Solve. The mediation will start not later than 20 days after the date of the ADR notice.

2. The commencement of mediation shall not prevent the parties commencing or continuing proceedings in relation to the Dispute under clause 16(10) which clause shall apply at all times.

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16. General

1. Any notice required under this Agreement to be given to us by you shall be delivered by hand or sent by pre-paid first class post or special delivery to the following address:

   Cloudoko Ltd
   Blake House
   18 Blake Street
   York
   North Yorkshire
   YO1 8QG

   We shall send notices to your registered office address or the address last made known to us by you.

   You agree to receive electronic notices from us, which will be sent by email to the account administrator you specify in the Portal as the billing contact. Notices are effective on the date on the return receipt or, for email, when sent. You are responsible for ensuring that the account administrator email address that you specify in the Portal is accurate and current. Any email notice that we send to that email address will be effective when sent, whether or not you actually receive the email.

2. You may not assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement either in whole or in part without our prior written consent.

3. If any part of this Agreement is held invalid, illegal or unenforceable, the rest remains in full force and effect.

4. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply whatever modification is necessary to give effect to the commercial intentions of the parties

5. Failure or delay to enforce any provision of this Agreement will not constitute a waiver, nor prevent or restrict the further exercise of that or any other right or remedy.

6. This Agreement does not create an agency, partnership, or joint venture.

7. This Agreement is the entire agreement concerning its subject matter and supersedes any prior or concurrent arrangements, understandings or agreements.

8. We shall have no liabilities to you under this Agreement if any failure in performance due to causes beyond our reasonable control (fire, explosion, power blackout, earthquake, flood, severe storms, strike, embargo, labour disputes, acts of civil or military authority, war, terrorism (including cyber terrorism), acts of God, acts or omissions of Internet traffic carriers, actions or omissions of regulatory or governmental bodies (including the passage of laws or regulations or other acts of

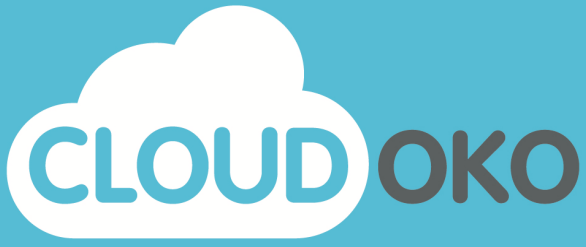
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government that impact the delivery of Services)). This clause will not, however, apply to your payment obligations under this Agreement.

9. If you are an individual accepting these terms on behalf of an entity, you represent that you have the legal authority to enter into this Agreement on that entity's behalf.

10. 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 and the parties irrevocably submit to the exclusive jurisdiction of the Courts of England and Wales.

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